

SOLICITOR

AO 120 (Rev. 3/04)

TO: Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	MAR 10 2009 U.S. PATENT & TRADEMARK OFFICE	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
--	--	---

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
filed in the U.S. District Court Connecticut on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. 3:09cv337 (VLB)	DATE FILED 2/27/2009	U.S. DISTRICT COURT Connecticut
PLAINTIFF Higher One Inc		DEFENDANT Touchnet Information Systems Inc
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 7,496,536		see copy of attached complaint
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
3			
4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK ROBERTA D. TABORA	(BY) DEPUTY CLERK <i>[Signature]</i>	DATE 3/5/2009
--------------------------------	--------------------------------------	----------------------

Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

HIGHER ONE, INC.,

Plaintiff,

v.

TOUCHNET INFORMATION
SYSTEMS, INC.,

Defendant.

Civil Action No.

9 CV 337 VLB

Jury Trial Demanded

COMPLAINT

Plaintiff Higher One, Inc. ("Higher One"), for its Complaint against Defendant
TouchNet Information Systems, Inc. ("TouchNet"), alleges.

1. This is an action for patent infringement, arising under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.*, in particular 35 U.S.C. §§ 271 and 281. This Court has subject matter jurisdiction under 35 U.S.C. § 281 and 28 U.S.C. §§ 1331 and 1338 (a).

THE PARTIES AND VENUE

2. Higher One is a Delaware corporation with its principal place of business at 25 Science Park, New Haven, Connecticut 06511.

3. TouchNet is, on information and belief, a Kansas corporation with its principal place of business at 15520 College Blvd., Lenexa, Kansas 66219-1353.

4. Venue is proper in this judicial district under 28 U.S.C. §§ 1400 (b) and 1391 (b)(1) and (c). TouchNet is a corporation subject to personal jurisdiction in this

FILED

2009 FEB 27 P 3:45

U.S. DISTRICT COURT
NEW HAVEN, CT

FILED

2009 FEB 27 P 3:45
U.S. DISTRICT COURT
NEW HAVEN, CT

judicial district pursuant to the Connecticut Long-Arm statute, Conn. Gen. Stat. §§ 33-929 (f)(2), (3) and (4), because Higher One's causes of action arise out of TouchNet's repeated solicitation of business in this State, TouchNet's distribution of goods with the reasonable expectation that they would be used and consumed in this State and are so used and consumed, and TouchNet's tortious conduct by infringing Higher One's patent in this State. For each of these independent reasons, TouchNet is deemed to reside in Connecticut for purposes of 28 U.S.C. §§ 1391 (b)(1) and (c) and 1400 (b). Venue is also proper in this judicial district under 28 U.S.C. § 1391 (b)(2), because a substantial part of the events giving rise to Higher One's claims occurred here.

5. TouchNet's infringing products are marketed and sold under the name "Bill+Payment Suite." On information and belief, TouchNet regularly markets its infringing "Bill+Payment Suite" products in Connecticut, employs a sales force that regularly seeks to sell its infringing "Bill+Payment Suite" products in Connecticut, and has sold its infringing "Bill+Payment Suite" products to customers in Connecticut.

FACTS

6. On February 24, 2009, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 7,496,536 ("the '536 Patent"), entitled "Systems and Methods to Facilitate a Transfer of a Refund Amount From an Educational Institution to a Student." A true and correct copy of the '536 Patent is attached to this Complaint as Exhibit A. Through a series of assignments, each recorded in the U.S. Patent and Trademark Office on March 12, 2004, at Reel 015087, Frame 0987, Higher One owns all right, title and interest in and to the '536 Patent, including the right to

redress all past and present infringements of the patent. The '536 Patent is in full force and effect, with all necessary fees having been paid.

7. Until Higher One pioneered the refund management processes described and claimed in the '536 Patent, colleges and universities employed time-consuming, complicated and expensive paper-based processes to make payments to students receiving funds such as financial aid from the schools. These payments, which are processed per semester and referred to as "refunds" by colleges and universities, are crucial to students because they enable them to pay living expenses, buy books, and pay other expenses necessary to maintain their enrollment. The previously prevailing refund processes often resulted in long delays in payment, causing students material financial hardship, and forced the educational institutions to incur significant extra costs for the labor, equipment, printing, paper and postage necessary to generate and mail refund checks. Also, the United States Department of Education has adopted complex regulations governing these refund payments. Compliance with these regulations imposed an extra financial and logistical burden on educational institutions that used traditional refund payment methods, and the institutions face potential penalties for non-compliance.

8. Higher One, founded in 2000 by three Yale University undergraduates, has transformed higher education financial practices with the innovative systems and methods of refund management described in the '536 Patent. Indeed, Higher One is widely recognized among college and university financial officials as the inventor of true refund management services. Employing software described and claimed in the '536 Patent, Higher One now provides its refund management services, marketed as the One

Disburse® Refund Management® system, on 270 higher education campuses with over 1.5 million students, and has processed more than \$6 billion in refund payments. The services built around the '536 Patent invention have fueled Higher One's striking growth: the company now has over 250 employees, and recorded 2008 revenues of over \$40 million.

9. The groundbreaking invention described and claimed in the '536 Patent relates generally to systems and methods to facilitate a transfer of a refund amount from an educational institution to a student. The particular systems and methods of the '536 Patent invention are to facilitate a transfer of a refund amount from an educational institution to a student by receiving information from the institution about the size of the refund amount, determining the method of delivery chosen by the student, and automatically arranging for the timely payment of the refund amount in accordance with the chosen method of delivery. The invention enables educational institutions to process and transfer refunds to students more efficiently and reliably, which in turn enables students to comply more quickly and reliably with their own financial obligations. The invention has also significantly facilitated compliance with Department of Education regulations, and has enabled the colleges and universities that purchase Higher One's Refund Management® system to achieve substantial savings compared to the traditional processes for paying refunds: Higher One customers report average annual savings of \$500,000.

10. The Higher One Refund Management® system made and sold under and in accordance with the '536 Patent has been marked "Patent Pending".

11. TouchNet is a direct competitor of Higher One. Through various means, including its website "touchnet.com" and a field sales force TouchNet offers for sale and sells in the United States a competing refund system, "eRefunds," which is incorporated in its Bill+Payment Suite that infringes the '536 Patent.

COUNT I – PATENT INFRINGEMENT

12. Higher One incorporates paragraphs 1 through 12 as if fully set forth.

13. TouchNet, without Higher One's authorization, is engaged in this judicial district and elsewhere in the United States in the manufacture and/or use and/or offering for sale and/or sale of its "Bill+Payment Suite" system, and/or is contributing to and/or actively inducing others to engage in such activities, in infringement of one or more claims of the '536 Patent and in violation of one or more sub-paragraphs of 35 U.S.C. § 271, including but not limited to, direct infringement under 35 U.S.C. § 271 (a).

14. TouchNet's infringing acts have damaged and are continuing to damage, Higher One, and unless the Court enjoins those acts, TouchNet will continue to cause Higher One irreparable harm for which there is no adequate remedy at law, entitling Higher One to injunctive relief under 35 U. S. C. § 283.

PRAYER FOR RELIEF

WHEREFORE, Higher One prays for this relief:

A. A judgment that TouchNet has infringed one or more claims of the '536 Patent;

- B. A judgment requiring TouchNet to pay damages adequate to compensate Higher One for TouchNet's infringement of the '536 Patent, pursuant to 35 U.S.C. § 284, including an accounting;
- C. An award to Higher One of its costs in connection with this action;
- D. An award to Higher One of pre-judgment and post-judgment interest on its damages;
- E. A preliminary and permanent injunction barring TouchNet and its officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, from further infringement of the '536 Patent pursuant to 35 U.S.C. § 283; and
- F. Such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Higher One requests trial by jury of all claims and issues so triable under law.

Higher One, Inc.

By:
Edward Wood Dunham (ct 05429)
WIGGIN AND DANA LLP
One Century Tower
P.O. Box 1832
265 Church Street
New Haven, CT 06508-1832
Telephone: (203) 498-4400
Facsimile: (203) 782-2889
Email: edunham@wiggin.com

Laura A. Chubb (ct 27794)
WIGGIN AND DANA LLP
450 Lexington Avenue, Suite 3800
New York, NY 10017
Telephone: (212) 490-1700

Facsimile: (212) 490-0536
Email: lchubb@wiggin.com

Of Counsel:
Anthony Gangemi
WIGGIN AND DANA LLP
One Century Tower
P.O. Box 1832
265 Church Street
New Haven, CT 06508-1832
Telephone: (203) 498-4400
Facsimile: (203) 782-2889
Email: agangemi@wiggin.com

Attorneys for Plaintiff

16873\152179862.1